

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Itoffee R. Gayle

Write the full name of each plaintiff.

18CV6025

(Include case number if one has been assigned)

-against-

Angie Villamarin

COMPLAINT

Do you want a jury trial?

☒ Yes ☒ No

Write the full name of each defendant. If you need more space, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section II.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

2018 JUL 2 PM 2:55
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

☒ Federal Question

☐ Diversity of Citizenship

A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

i) Federal TRADEMARK INFRINGEMENT under 15 USC.
 ii) Federal UNFAIR COMPETITION under 15 USC.
 & TRADEMARK INFRINGEMENT under Related State LAWS
 iii) COPYRIGHT INFRINGEMENT under 17 U.S.C.

B. If you checked Diversity of Citizenship**1. Citizenship of the parties**

Of what State is each party a citizen?

The plaintiff, Itoffee R. Gayle, is a citizen of the State of
 (Plaintiff's name)

NEW YORK

(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, ANGIE VILLAMARIN, is a citizen of the State of
(Defendant's name)

NEW YORK

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

If the defendant is a corporation:

The defendant, _____, is incorporated under the laws of
the State of _____

and has its principal place of business in the State of _____

or is incorporated under the laws of (foreign state) _____

and has its principal place of business in _____

If more than one defendant is named in the complaint, attach additional pages providing information for each additional defendant.

II. PARTIES

A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

Itoffee R Gayle
First Name Middle Initial Last Name

2010 POWELL AVE
Street Address

BRONX N.Y. 10472
County, City State Zip Code

Telephone Number

itoffeeGayle@yahoo.com
Email Address (if available)

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1: ANGIE VILLAMARIN
 First Name Last Name
REP All-STAR COACH
 Current Job Title (or other identifying information)
212 North End Ave
 Current Work Address (or other address where defendant may be served)
New York City N.Y. 10282
 County, City State Zip Code

Defendant 2: _____
 First Name Last Name

 Current Job Title (or other identifying information)

 Current Work Address (or other address where defendant may be served)

 County, City State Zip Code

Defendant 3: _____
 First Name Last Name

 Current Job Title (or other identifying information)

 Current Work Address (or other address where defendant may be served)

 County, City State Zip Code

Defendant 4:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

III. STATEMENT OF CLAIM

Place(s) of occurrence:

New York

Date(s) of occurrence:

2016

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and what each defendant personally did or failed to do that harmed you. Attach additional pages if needed.

- ① The Defendant Angie Villamarin used the Trademark "Art we All" Registration 5108721 Along with copyrights VA 2008958 and VA 2006958 in the manufacturing of Baseball Hats now popularly known as "Dad Hats". The defendant was contacted via the social media platform, Instagram^{IN} to cease production of the fraudulent hats containing the "Art we All" TRADemark. Despite the firm warning, the defendant continued to manufacture, promote, and sell false versions of Artwe All dad hats via direct sales, pop up art shows, and

Sales via Sideshow Skate Shop.

In addition, the counterfeit hat was used as a prop in music video produced by John Green Films

② The counterfeit hat and Plaintiff's hat are one in the same, with the exception for the back design. Plaintiff's authentic model includes "NYC" while defendant's fraudulent model includes "GreedySouls."

The defendant use of the plaintiff's well known "ART WE ALL" design and moniker is likely to cause consumers to falsely believe that defendant's products come from or are otherwise associated with Plaintiff.

③ AS A result, the Plaintiff, Itoffee R. Gayle sets forth claims for

Copyright and TRADEMARK Infringement,
UNFAIR competition and deceptive
TRADE practices. The Plaintiff seeks
Financial Relief amounting to
\$850.000 for treble and punitive
DAMAGES. In Addition, the Plaintiff
Requires an accounting of defendant's
Profits From all sales of
Counterfeit hats including the
Sales Records From Sideshow
SKATE Shop and permanent
cease in production, Promotion
and Selling of counterfeit
ART WE ALL DAD HATS.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

IV. RELIEF

State briefly what money damages or other relief you want the court to order.

\$ 850,000

V. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated <u>I toffee R</u>		Plaintiff's Signature <u>V. Gayle</u>	
First Name <u>2010</u>	Middle Initial <u>powell</u>	Last Name <u>Gayle</u>	
Street Address <u>Ave</u>			
County, City <u>BRONX</u>	State <u>N.Y.</u>	Zip Code <u>10472</u>	
Telephone Number _____		Email Address (if available) _____	

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☐ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Karen Leigh Clayett

Acting United States Register of Copyrights and Director

Registration Number

VA 2-088-822

Effective Date of Registration:

March 28, 2017

Title

Title of Work: Art we All Group Registration Photos, New York, published January 1, 2012; 13 photos.

Completion/Publication

Year of Completion: 2012
Date of 1st Publication: January 01, 2012
Nation of 1st Publication: United States

Author

- Author:** Itoffee Gayle
Author Created: 2-D artwork
Citizen of: United States
Domiciled in: United States

Copyright Claimant

Copyright Claimant: Itoffee Gayle
2010 Powell Ave, Bronx, NY, United States

Rights and Permissions

Name: Itoffee Gayle
Email: itoffeegayle@yahoo.com
Telephone: (917)952-5661
Alt. Telephone: (347)624-2475

Certification

Name: Itoffee Gayle
Date: February 06, 2018

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made part of the Copyright Office records.

Mar A. Pallante

United States Register of Copyrights and Director

Registration Number

VA 2-006-958

Effective Date of Registration:

March 25, 2016

Title

Title of Work: Art We All

Completion/Publication

Year of Completion: 2012

Date of 1st Publication: January 01, 2012

Nation of 1st Publication: United States

Author

• Author: Itoffee Gayle
Author Credit: photograph
Citizenship: United States

Copyright Claimant

Copyright Claimant: Itoffee Gayle
2010 Powell Ave., Bronx, NY, 10472, United States

Rights and Permissions

Name: Itoffee Gayle
Email: representart1@gmail.com
Telephone: (917)952-5661

Certification

Name: Itoffee Gayle
Date: March 25, 2016

United States of America

United States Patent and Trademark Office

ART WE ALL

Reg. No. 5,108,7

Registered Dec. , 2016

Int. Cl.: 35

Service Mark

Principal Register

Gayle, Itoffee (UNITED STATES INDIVIDUAL)
2010 Powell Ave Apt 2F
Bronx, NY 10472

CLASS 35: Retail store services featuring works of art

FIRST USE 4-27-2016; IN COMMERCE 4-27-2016

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY
PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-032,634, FILED 05-11-2016
STEPHANIE DIA RYDLAND, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office





Most Recent
#artweall



cristianlazarus
Bushwick/Ridgewood

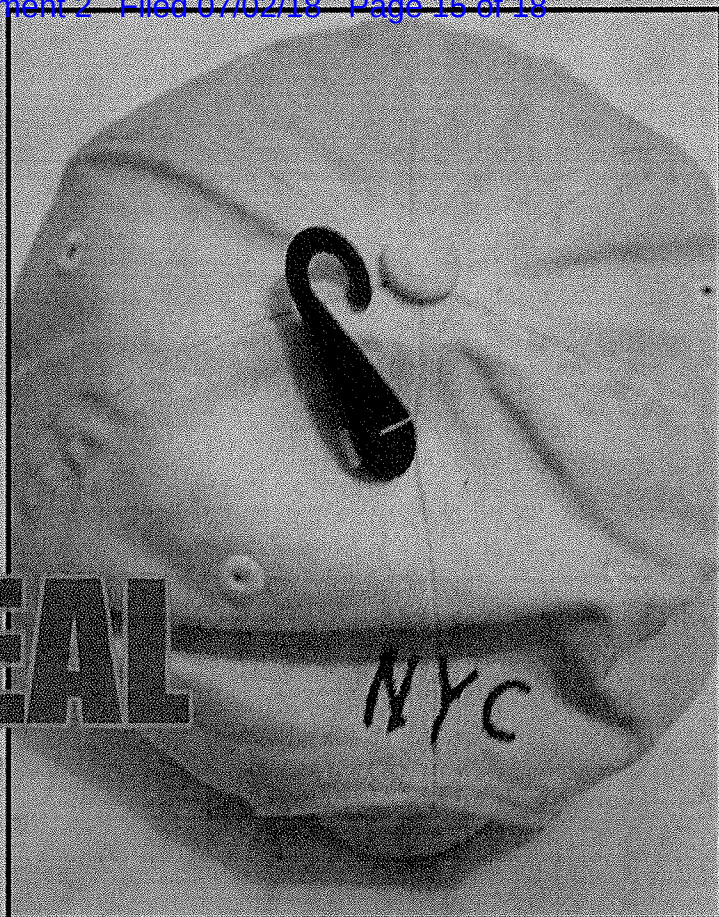
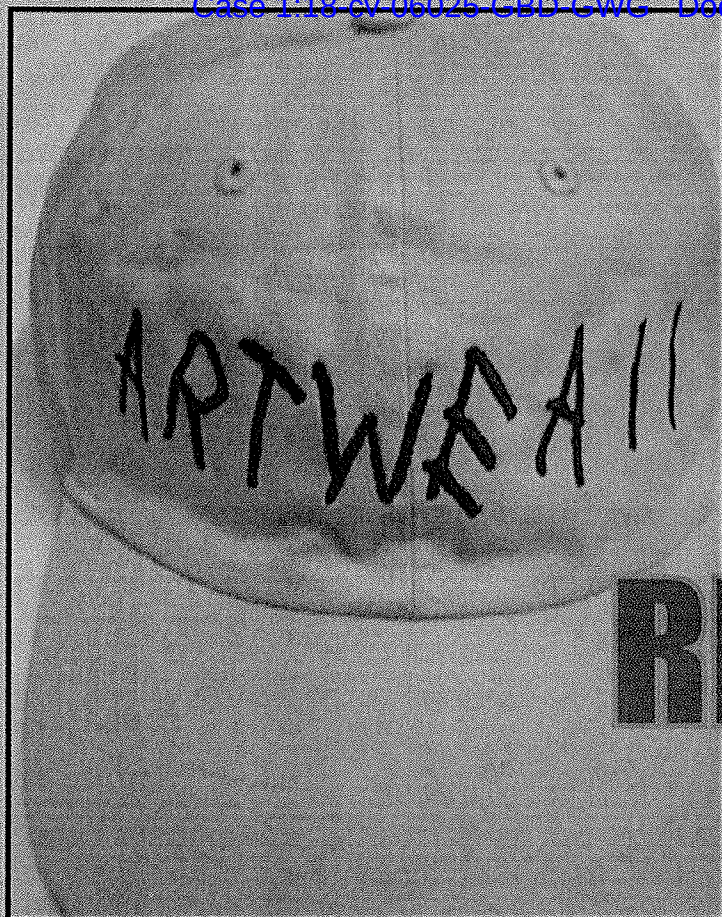
FOLLOW



► 150 views

cristianlazarus GREEDY \$OUL\$ POP-UP \$HOP tonight! 1001 Irving Ave, Brooklyn NY 11385 - LIVE ART, MUSIC, DRINKS & A SPECIAL GUEST PRESENTATION BETWEEN 9-10pm - COME THRU!
#greedysouls #popupshop #brooklyn #loft #music #art #fashionevent #queenskids #artweall





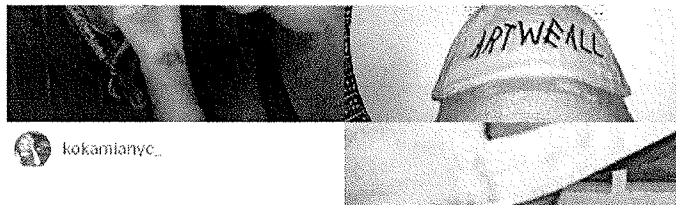
REAL



FAKE



Name this group...



21 likes



..pinnacle #ARTWEALL
neen.p ~ send one out to Cali for me kid
..pinnacle I got you dm me your number I have
junior mitch Lets shoot this
11/11/2017

Hello All,

On behalf of the original Artweall LLC and associates, I am extending a firm warning to you that the use of any variations of the ArtweAll LLC logo without consent will result in serious legal consequences.

Creation, distribution, and sales of merchandise containing the ArtweAll LLC logo violates the NYC's Consumer Protection Law and related laws.

Please do not hesitate to address any concerns or questions.



Write a message...





PINNACLE, VITALIA.G, NEEN...



Name this group...



Hello there to you too , on behave of GREEDYSOULS & anyone who can relate & connect to the phrase "Art we all " is a feeling put on a cap with different font then yours & different intent nowhere does it violate the ArtweAll LLC / artweallnyc /artweallone ect...or who ever you represent however, the right only applies to the types of goods or services that are registered for that name. The name does not apply to all products. If your trademark is for a line of clothing, another company can still use that name for its tractors. Also, a trademarks is limited to goods or services being produced now, not ones you are thinking about for the future. I would appreciate if you contact me directly to address any other concerns you may have .



Write a message...



← Photo



a_steetz

Aloft Long Island City-Manhattan View



252 likes

a_steetz Everything I said, it happened 🙏 believe in yourself ! keep your faith, your trust, & never stop working on your dreams. I am grateful for all the believers, for all the love & support we been getting! @greedysouls More then just designs it's a metaphorical love message! we are creating waves ! 🌊 we are all artist ! #artweall #workonyou #greedysouls #anythingyoucanimagineisreal #findyourpassion #dowhatyoulove #lovewhatyoudo #secondcollection #ontheway

